BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

HELEN WATT, M.D.

Holder of License No. **22016**
For the Practice of Allopathic Medicine
In the State of Arizona.

Board Case No. MD-03-1019A

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

(Letter of Reprimand and Probation)

The Arizona Medical Board ("Board") considered this matter at its public meeting on October 7, 2005. Helen Watt, M.D., ("Respondent") appeared before the Board with legal counsel Joseph D'Aguanno for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(H). The Board voted to issue the following findings of fact, conclusions of law and order after due consideration of the facts and law applicable to this matter.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 22016 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-03-1019A after receiving a complaint regarding Respondent's care and treatment of a 47 year-old female patient ("MHV"). The complaint alleged Respondent refused to provide her records of MHV's care to another treating physician. During the course of the Board's investigation two additional allegations developed: Respondent treated MHV inappropriately by treating an abdominal incision with Chi lamp therapy resulting in burns requiring subsequent surgery and Respondent's documentation of MHV's care may have been inadequate.

4. Respondent was asked to describe her current practice. Respondent testified she did quite a bit of nutritional medicine. Respondent noted she gets referrals from cancer doctors to help patients with nutrition and gets patients through referrals from her patients who tell others about their rapid recovery from surgery. Respondent stated she also does quite a bit of ear, nose and throat.

5. Respondent was asked if she opened a chart on patients she saw for nutritional issues and whether she treated them as she would any other patient. Respondent testified she did. Respondent was directed to MHV's patient registration form dated August 18, 2003 and asked if she or MHV filled out the form. Respondent testified MHV filled out the form, but some of Respondent's handwriting was on the form because she goes over the form with her patients. Respondent testified patients also fill out a three page history form. Respondent was asked if her charting was standard charting. Respondent testified she has minimal office help and has learned to fill in the blanks and improve upon the patient's history based on further questioning and this is the way she has always done it. Respondent testified she was trained as a surgeon, but has gotten more into family practice and internal medicine and this is the system she has figured out works best for her.

6. The Board acknowledged Respondent's explanation of her system, but expressed its concern regarding whether another physician who received the records would know who wrote which notes on the record. Respondent testified it would be very difficult for another physician to figure out, but the way she has justified it is that it is more of a complete patient history so regardless of who wrote it down it was still patient history and not something that necessarily was determining either treatment plan or recommendations.

7. Respondent was asked where in the record the Board could locate MHV's records for the visit that corresponded to a super bill dated August 21, 2003. Respondent apologized to the Board and testified she knew she wrote notes on this visit, but this was a visit before her mother became gravely ill and she cannot find the notes. The Board confirmed there were no records for the August 21, 2003 visit. Respondent was asked the purpose of MHV's August 21, 2003 visit. Respondent suspected, based on her knowledge of how she sees patients, that when she does a nutrition consult in preparation for surgery she likes to have about six weeks to get the patient in the best shape for the surgery, whatever the surgery may be. Respondent testified she normally does not see patients in three day intervals, but the two and one-half hour length of MHV's first visit had to be continued. Respondent could not recall if the visit was continued for questions, but there may have been a lack of paying attention or needing to go to an appointment because MHV's visit started late in the day at 4:30 and two and one-half hours later was quite late in the day.

8. Respondent was asked if the August 21, 2003 visit was prior to MHV's surgery. Respondent testified it was. Respondent was asked where in the record the Board could locate the records for MHV's visit after her surgery. Respondent testified there were none. Respondent was asked about one of the letters she sent to the Board during the investigation stating she had no time to document during MHV's visit and that this happens on other office days, specifically Respondent was asked how often it was that she did not have time to document a visit. Respondent testified it did not happen often, but if she is fielding phone calls, seeing patients, or checking on labs, sometimes she can only write appropriate big words and go back in the evening and fill out all of the appropriate data to complete the chart. Respondent testified it does not happen all the time, but happened enough that it became a pretty easy routine for her to do.

9. Respondent was asked what happened if she did not get to the chart later. Respondent testified the chart would not be filled out, but that is a unique situation. Respondent was asked if MHV filled out a consent form prior to Respondent's Chi lamp treatment. Respondent testified she did not consider that the treatment needed a consent form because it was routine wound care. The Board noted there was no documentation of her findings, her assessment, and no documents at all for that visit. Respondent testified she created the record dated January 4, 2004 after returning from caring for her mother and learning the Board was seeking a record. Respondent testified a Board Investigator suggested she write what she could recall about the August 2003 visit and post-date it to the day it was actually written so the Board would know it was not a contemporaneous record.

10. Respondent was asked if the January 4, 2004 record was an example of how she normally writes her notes. Respondent testified she did handwrite her notes and no longer dictated because the dictated notes always came back to her with errors and it took too long to get the record into the chart. Respondent testified that normally if the chart is not done immediately upon seeing the patient it would be done within twelve hours of the visit. Respondent was asked if there was any particular organization to how she writes her charts. Respondent testified generally she tries to write down whatever the patient needs to see her for and, subsequent to MHV's case, she has a return office visit note that asks the patient to write down exactly what is going on since she last saw the patient and any supplements or over-the-counter drugs the patient is taking, or anything new that has transpired since the last visit. Respondent testified she has never used the "SOAP" format and generally asks what the patient is seeing her for, elaborates on that by asking questions, does a physical examination, does her assessment and then makes her recommendations.

11. The Board established that MHV had been seeing Respondent for nutritional consultation prior to a plastic surgery and returned to Respondent after the surgery with concerns about the healing of her abdominal wound and that MHV was under the care of the plastic surgeon at the time of the visit. The Board also established that Respondent treated MHV by use of a light. Respondent testified the light has been called a Chi light in her correspondence with the Board, but it was really a TDP lamp, of which a Chi lamp is a type. Respondent was asked if it was usual practice for one physician to intervene with another physician's patient care. Respondent testified it was not. Respondent was asked if it was within the standard of care for her to intervene. Respondent testified she had a very good rapport with MHV before the plastic surgery and had been unhappy that MHV had chosen to have her surgery as soon as she did because Respondent believed the best chances for the best result required MHV to wait. Respondent stated MHV chose not to wait for the surgery and ended up calling Respondent crying while Respondent was in the middle of a visit with another patient. Respondent testified MHV had just left the plastic surgeon's office and was angry and upset that the plastic surgeon was upset with the way her wound was healing.

12. Respondent testified she did not know it was the tenth postoperative day and did not know when MHV had the surgery. Respondent testified MHV was in tears and she allowed her to come to her office. Respondent testified she was in the middle of seeing another patient and took MHV back to what she calls her treatment room, a very clean area, and had her lie there while Respondent finished with the other patient. Respondent testified she saw MHV because she felt sorry for her. Respondent also testified she knew this time in her life personally was a terrible time to be seeing MHV and that the visit with the patient she was seeing when MHV called was interrupted five times with phone calls regarding her mother.

13. Respondent testified she tried to encourage MHV to see the plastic surgeon again, even before Respondent saw the wound, and told MHV that if she were the surgeon she would want to care for the problem herself and it was better for MHV to go back to the surgeon. Respondent testified MHV said the plastic surgeon blamed her for the slow healing and she had no rapport with the plastic surgeon and refused to go back. Respondent testified if this situation were to happen again she would refuse to see the patient and tell the patient the problem is for the surgeon to see and it is not a good time in Respondent's life for her to see the patient.

14. The Board noted it appeared Respondent gave MHV an ointment and told her to use it in place of the ointment the plastic surgeon had given her. Respondent testified she did not ask MHV to substitute the ointment and told her she had experience for the last seven years using the whole skin ointment with and without the use of the Chi lamp and that the ointment was lubricating, was sterilizing, and was an excellent ointment. Respondent stated she never intended for MHV to substitute or to not use any of the plastic surgeon's conventional treatments. Respondent was asked to tell the Board what happened to MHV after her visit with Respondent. Respondent testified the visit took forty minutes and she saw MHV the next day when MHV called and told Respondent she had developed a blister after the Chi lamp treatment. Respondent testified she opened up MHV's garment and took off the Telfa dressing MHV had applied and there was an intact superficial blister on MHV's abdomen. Respondent noted the blister was very irregular in outline and was several centimeters below MHV's umbilicus and up to the incision line.

15. Respondent testified she made no comment as to the origin of the blister, but took a sterile needle and syringe and, leaving the skin intact, withdrew the serum because she did not want to leave it in there in case it would become a bacterial medium.

Respondent testified she then asked MHV to tap on a substance she knows to be anti-viral, anti-fungal and anti-bacterial. Respondent indicated this substance is ultra-fractionated colostrum whey and she has been using it for probably nine years both for surgical wounds and other types of wounds, including dog bites and brown recluse spider bites. Respondent testified she told MHV it was appropriate to tap it on and then made plans for her to come back the next day, but she did not.

16. Respondent was asked whether she attended the burn education activities she submitted to the Board before or after MHV's burn. Respondent testified she would prefer not to call it a burn, it is a blister, but she believes that TDP lamps are able to delineate and accelerate a deterioration of tissue that is already nonviable and she believed the blister was the manifestation of that and not a burn at all. The Board noted the hospital records indicate two physicians stated it was a burn. Respondent was asked why she withdrew the fluid out of the blister and if that was standard of care in treatment of blisters. Respondent testified in her practice it is standard of care and that she has never seen a blister quite as irregular and big as MHV's, but it was on her abdominal surface and was going to be under Telfa and underneath her abdominal girdle and Respondent did not want it to pop and get water or serum or whatever was contained in the blister all over MHV. Respondent also indicated if what was in the blister was indeed serum it would be high protein and a perfect bacterial breakfast or medium. Respondent testified during her education she learned in her physiology class that fibroblasts actually grow faster and re-epithelialize when they have a bridge to grow over and in the carbon dioxide laser resurfacing she does she leaves the last charred layer of burned skin and her patients get back to work with colostrum in four days without makeup because of the technique she uses.

17. Respondent was asked where her office was located when she saw MHV. Respondent testified her office was located in a large Arizona room at the back of the house she was renting at that time. Respondent indicated her office has not been located in her home since December 2003. Respondent was asked about the portion of the complaint stating she told MHV to not tell the plastic surgeon of the visit with Respondent. Respondent testified she did this not to be secretive and sneaky, but because when MHV presented to her, untouched by her, she had a black eschar and it was full thickness all the way down through the thickness of the flap, not just the full thickness of the skin. Respondent testified the conventional treatment the plastic surgeon had been using had apparently not caused any improvement through the tenth postoperative day and MHV was very angry and upset.

18. Respondent was asked why she did not call the plastic surgeon and discuss MHV. Respondent testified she begged MHV to go back to the plastic surgeon prior to Respondent attempting to help her and MHV refused. Respondent testified she thought if she even called the plastic surgeon behind MHV's back it would further produce antagonism between MHV and the plastic surgeon. Respondent testified MHV told her the plastic surgeon was rude and sort of shoved her off and her staff was rude.

19. The Board confirmed that Respondent was not board certified by the American Board of Plastic Surgery. The Board confirmed Respondent purchased the lamp she used from another doctor. Respondent was asked who maintains and services the lamp to make sure the output is what she expects it to be. Respondent testified she had no records of maintenance and she usually does not generally think of it as having a maintenance problem. Respondent stated she tries to record the number of hours or at least imagine the number of hours that have been placed on the lamp so that it has the highest output it can, but because it was a demonstration model that she bought less

expensively it was not as powerful as it probably should have been. Respondent was asked if she was aware these devices can fail and sometimes the output can be greater or lesser than she expected. Respondent testified with the research she has been able to do and with her experience with the lamps she has never found them to be more powerful in their malfunction, but definitely the older they get the less they conform to doing what they are supposed to do.

20. Respondent was asked if she was doing any hospital work at the time she was taking care of MHV. Respondent testified she was not. The Board expressed concern that as a physician who was in the office all day and not called away to the hospital she could not record medical records contemporaneously with the patient's visit, particularly since as time passed she would begin to forget what actually occurred. Respondent testified she agreed with the concern, but this circumstance was an exception. Respondent was asked to explain a situation where not having contemporaneous records was acceptable in other than an emergency situation. Respondent testified when she agreed over the phone to see MHV, MHV had just come from the plastic surgeon's office and knowing that, she kept her waiting because she already had another patient and probably did not start seeing her until after 5:00 p.m. Respondent testified at the time MHV was so very upset that she thought the best way to handle the situation was to not do her usual standard – write down a few key words, or key phrases – but to let MHV see that Respondent was listening to her and was focused on her and taking care of the wound while taking the history.

21. Respondent testified she was sorry the Board was not there to see how upset MHV was, but in her mind she was thinking she hoped MHV did not sue the plastic surgeon because Respondent knew MHV's problem was probably a skin flap problem. Respondent was asked again the reasons she was unable to document the record at the

time she saw MHV. Respondent testified she was trying to be careful about how she would word it in her records. Respondent was asked how many other TDP lamps are in Maricopa County. Respondent testified she was aware of at least two.

22. Respondent was asked if when MHV came to her she accepted her to treat her. Respondent testified she had. Respondent was asked if she was competent to take care of the complications that could have developed in MHV if things had gotten worse, if her treatment did not work. Respondent testified she was trained if she could not take care of a complicated procedure she should not be involved in the procedure. Respondent testified she has had the lamp and it has never caused a complication and she did not know of an instance where it has not done what she wanted it to do in combination with the whole skin ointment and the colostrum. Respondent testified she could not have taken MHV back to the operating room to debride her flap because she did not have hospital privileges. Respondent testified she believed her care would help revascularize the flap, there would be minimal, if any, debridement required at the suture line and the plastic surgeon's care could go straightforward. Respondent testified there was no attempt whatsoever for her to substitute her care or to replace the plastic surgeon, but MHV refused to go back to the plastic surgeon. The Board noted that MHV did return to the plastic surgeon after having the burn treated in the hospital.

23. Respondent was asked whether, since she was ill equipped to take over MHV, she made recommendations for another qualified surgeon to take over. Respondent testified she did not because she did not think any other conventional treatment, which the plastic surgeon was doing her utmost to do, was going to improve MHV's situation and she thought her treatment would help and she thought MHV would return to her and she would be regularly helping her.

24. Respondent was asked what surgical procedures she performed in her office. Respondent testified they vary from small skin cancers to a mid-facelift, to blepharoplasties, to removal of sebaceous glands. Respondent was asked to explain more about the colostrum substance and whether it is human derived or bovine derived. Respondent testified it is bovine derived and ultra-fractionated with a highest molecular weight under 50,000 angstroms. Respondent testified the research was done under the original name of "Cytolog" in Central America and was taken internally or by mouth sublingually and was found to curtail collagen vascular diseases, vascularities and rheumatoid arthritis. Respondent testified it was her idea to try it after skin resurfacing to see if it would help heal abraded or burned skin and she was in fact able to go back to work in four days after her own resurfacing.

25. Respondent was asked what problems there were with MHV's incision when she presented to Respondent. Respondent testified the plastic surgeon had done a nice job in terms of diminishing the fat and extra skin she had seen on MHV's previous visit, but the incision had approximately maybe five to six centimeters of dead tissue through and through, through the entire skin flap, tissue that was black eschar, dark brown eschar. There was one and one-half centimeters just anterior to the incision line. Respondent was asked if there were any blisters. Respondent testified there were not. Respondent was asked if when she applied the Chi light there was any way to regulate the output. Respondent testified the light is just turned on and off and there is a period of time that the heat, which is meant to bring in vascularity, increase blood flow, increase oxygenation etc., takes anywhere from four to ten minutes to get hot or heated up. Respondent was asked if it mattered how close the light is placed to the skin. Respondent testified it would. Respondent testified she held the light approximately ten to twelve inches away from the area at exactly ninety degrees so any overlap would not

have happened because she was trying to get it directly down on the eschar to see if she could not draw blood into that area.

26. Respondent was asked if the treatment she used on MHV was an allopathic treatment modality. Respondent testified it certainly is not standard of care. Respondent was asked if she had any certification or licenses from homeopathic or natural medicine boards. Respondent said she did not, but was board qualified. Respondent was asked if someone put their hand on the lamp would they be burned. Respondent testified it would depend on how long it was on and it would burn only if it touched skin. Respondent testified she did not believe MHV's blister was a burn and she explained to her that it was delineation of nonviable cells and Respondent was not concerned about it being a burn, no matter how deep it could have become. Respondent testified it was a very superficial thing in which she felt the epidermolysis – the plastic surgeon's term – along her incision line was probably what was advanced or accelerated by use of Respondent's TDP lamp.

27. Respondent testified she believed that with her experience with the TDP lamp and colostrum that there was not only no harm done, but that it would have enhanced any subsequent surgical procedures should MHV be able to go back to her original surgeon, which she encouraged. Respondent testified her treatments were non-invasive and conservative and supportive of the plastic surgeon. Respondent testified keeping records has been one of her fortes in the past and it was a very difficult thing for her to do at the time because of her feeling of protection for the plastic surgeon as well as her trying to focus on the patient and let her know that doctors can listen and not appear abrupt. Respondent testified she never attempted to substitute her care for the plastic surgeon's care and never instructed MHV to do any of her own wound care.

28. Respondent was required to keep adequate medical records consisting of legible records containing, at a minimum, sufficient information to identify the patient,

support the diagnosis, justify the treatment, accurately document the results, indicate advice and cautionary warnings provided to the patient and provide sufficient information for another practitioner to assume continuity of the patient's care at any point in the course of treatment.

29. The standard of care during the healing phase of an abdominoplasty wound is to take care to prevent any further insult to the skin since the decrease in blood supply makes the skin more susceptible to wound healing problems. The standard of care when a wound is showing signs of decreased blood flow such as epidermolysis and ecchymosis is conservative treatment of the areas. The standard of care for treating the type of burn sustained in this case consists of cleaning the wounds with a mild soap and debriding ruptured bullae or blisters. Intact blisters that do not impede motion need not be ruptured and the wound should be covered by a sterile dressing. Appropriate follow-up care is required to provide continued wound care, to monitor the burn and watch for signs of infection.

30. Respondent deviated from the standard of care because the Chi lamp therapy caused full thickness skin loss by virtue of thermal damage to the skin and because the use of a heat producing lamp on an abdominoplasty wound is medically unsound. Respondent deviated from the standard of care when she aspirated the blister and applied an unknown, possibly contaminating substance, to the wound and turned the burn care over to the patient prematurely.

31. MHV was harmed because she sustained significant burns of the abdominal skin that required two surgeries and a lengthy hospitalization to treat.

CONCLUSIONS OF LAW

1. The Arizona Medical Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings constitute unprofessional conduct or other grounds for the Board to take disciplinary action.

3. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § 32-1401(27)(e) ("[f]ailing or refusing to maintain adequate records on a patient;") and 32-1401(27)(ll) ("[c]onduct that the board determines is gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient.")

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED:

1. Respondent is issued a Letter of Reprimand for inappropriate treatment of an abdominoplasty wound; inappropriate treatment of burns; and failure to maintain adequate medical records.

2. Respondent is placed on probation for one year with the following terms and conditions:

a. Within six months Respondent shall obtain 20 hours of Board Staff pre-approved Category I Continuing Medical Education ("CME") in recordkeeping offered by the Physician Assessment and Clinical Education Program ("PACE"). Respondent shall provide Board Staff with satisfactory proof of attendance. The CME hours shall be in addition to the hours required for biennial renewal of medical license. At the end of one-year probationary period Respondent shall be subjected to random chart reviews. The Board may initiate a new investigation based on the results of the chart reviews.

b. Respondent shall obey all federal, state, and local laws and all rules governing the practice of medicine in Arizona.

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that she has the right to petition for a rehearing or review. The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-102. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.

DATED this 12th day of December, 2005.

ARIZONA MEDICAL BOARD 1913 STATE OF ARIZONA

THE ARIZONA MEDICAL BOARD

By _____
TIMOTHY C. MILLER, J.D.
Executive Director

ORIGINAL of the foregoing filed this 12th day of December, 2005 with:

Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

Executed copy of the foregoing mailed by U.S. Certified Mail this 12th day of December, 2005, to:

Joseph D'Aguanno
Olson, Jantsch & Bakker
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Phoenix, Arizona 85020-7250

Helen Watt, M.D.
Address of Record